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| APPLICATION NO.                        | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/688,806                             | 10/17/2003  | John Caden           | 1.260.03            | 9685             |
| 4219                                   | 7590        | 02/12/2007           | EXAMINER            |                  |
| MALLOY & MALLOY                        |             |                      | RICHMAN, GLENN E    |                  |
| 2800 S.W. THIRD AVENUE                 |             |                      | ART UNIT            | PAPER NUMBER     |
| HISTORIC CORAL WAY                     |             |                      |                     |                  |
| MIAMI, FL 33129                        |             |                      | 3764                |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE |             | MAIL DATE            | DELIVERY MODE       |                  |
| 3 MONTHS                               |             | 02/12/2007           | PAPER               |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                 |              |  |
|------------------------------|-----------------|--------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |  |
|                              | 10/688,806      | CADEN ET AL. |  |
|                              | Examiner        | Art Unit     |  |
|                              | Glenn Richman   | 3764         |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 December 2006.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) 1-18 and 20 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 19 and 21-32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.<br>   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

Applicant's election without traverse of Group II, claims 19, 21-32 in the reply filed on 12/4/06 is acknowledged. Claim 20 should have been in group I and will be treated as such.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 21-29, 31,32 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox.

Cox discloses a frame including a base disposed on a supporting surface (80), and a track assembly connecting to said base (24), said track assembly including an open end (fig. 2, between 14's) and a substantially closed end (fig. 2, between 12) and two track segments collectively convergent from said open end to said closed end (24, 24, fig. 2), two hand grips linearly and reciprocally movable along different ones of said track segments (28, treated as hand grips) a resistance assembly including a line extending along a predetermined path of travel in interconnecting relation to said hand grips, said resistance assembly including a resistance mechanism engaging said line and structured to exert a movement restrictive force thereon (70), and said open end

disposed and sufficiently dimensioned to at least partially receive the user therein when the user is in a seated, substantially upright orientation (fig. 1).

As for claims 21-29,31,32, Cox further discloses said track segments are disposed in a predetermined angular inclination relative to the supporting surface (fig. 2), said track segments are substantially coplanar with one another (fig. 2), a carriage assembly including at least two carriages each supporting a different one of said hand grips (fig. 1), said line is interconnected and movable with said carriages along said path of travel (col. 3, lines 33-46), said two track segments each have a linear, at least partially hollow configuration (fig. 3), said two carriages are movably connected both externally and internally to corresponding ones of said track segments (fig. 3), each of said carriage assemblies includes a roller assembly rotationally engaging interior portions of corresponding ones of said track segments (fig. 3), each of said track segments comprise a rail assembly disposed within and extending along a length thereof (fig.2), said rail assembly and said roller assembly cooperatively structured to movably secure each of said carriages to corresponding ones of said track segments (fig.3), said carriages include a shell disposed externally of and in at least partially surrounding relation to corresponding ones of said track segments (fig. 3), said track assembly is disposed at a predetermined angular inclination relative to the supporting surface (fig.2), said line is adjustable along its length and cooperatively disposed and structured with said handgrips to vary the relative positions of said handgrips upon adjustment of said line (fig. 2).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt.

Schmidt discloses a frame (68), including a base disposed on a supporting surface (74), and a track assembly connecting to said base (79a), said track assembly including an open end (fig. 8, bottom between 79a, 79b) and a substantially closed end (fig. 8, top between 79a, 79b) and two track segments collectively convergent from said open end to said closed end (fig. 8, 79a, 79b), two hand grips linearly and reciprocally movable along different ones of said track segments (77a, 77b) a resistance assembly including a line extending along a predetermined path of travel in interconnecting relation to said hand grips (col. 13, lines 41 – et seq.), said resistance assembly including a resistance mechanism engaging said line and structured to exert a movement restrictive force thereon (col. 13, lines 41 – et seq.), and said open end disposed and sufficiently dimensioned to at least partially receive the user therein when the user is in a seated, substantially upright orientation (fig. 8).

Schmidt discloses said track assembly is height adjustable relative to the supporting surface (col. 14, lines 46-52).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Glenn Richman  
Primary Examiner  
Art Unit 3764